United Nations E/2002/81

Economic and Social Council

Distr.: General
22 July 2002

Original: English

Substantive session of 2002
New York, 1-26 July 2002
Agenda item 14 (b)
Social and human rights questions: social development

Letter dated 17 July 2002 from the representative of the International Labour Organization to the United Nations addressed to the President of the Economic and Social Council

In the light of the resolution it adopted by consensus on 25 July 2001 concerning the question of the observance by the Government of Myanmar of the International Labour Organization Forced Labour Convention, 1930 (No. 29), the Economic and Social Council will no doubt be interested in the attached note, providing information on developments in the ILO over the past year, in connection with any further consideration it may wish to give to the request made in the 2000 resolution of the International Labour Conference.

(*Signed*) John **Langmore**
Director

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Annex

INTERNATIONAL LABOUR ORGANIZATION
LIAISON OFFICE WITH THE UNITED NATIONS

Note to the Economic and Social Council

A High-Level Team (HLT) chaired by Sir Ninian Stephen visited Myanmar for three weeks from 17 September 2001, as well as spending a further week across the border in Thailand, in order to conduct an objective assessment of the situation of forced labour in Myanmar following the measures announced by the Government in the fall of 2000. On the basis of its findings, and in the light of its analysis of the reasons for the lack of success in enforcement of the Orders concerning forced labour issued by the authorities, the HLT made a number of suggestions in its report [1] on steps to be taken to ensure the complete elimination of forced labour in the country, including the establishment of a form of permanent presence of the ILO in the country and the creation by the authorities of an Ombudsperson or similar institution to deal with complaints concerning forced labour. These suggestions were endorsed by the ILO Governing Body, which considered the report of the HLT at its 282nd Session (November 2001).

On 19 March 2002 an understanding was reached between the Government of Myanmar and the International Labour Office concerning the appointment of an ILO Liaison Officer in Myanmar. In its conclusions adopted following consideration of the item at its 283rd Session (March 2002), the ILO Governing Body endorsed this understanding, subject to a number of comments and clarifications made during its debate of the question, and on the understanding that this first step must develop into a full and effective ILO representation. The Governing Body conclusions also dealt with other issues (the Ombudsperson and the follow-up to an allegation reported to the HLT that seven Shan villagers had been killed after complaining about forced labour).

On 6 May 2002, the ILO Director-General appointed an interim Liaison Officer in Myanmar. At a special sitting on 8 June, the Committee on the Application of Standards of the International Labour Conference was able to consider a report setting out the activities of the Liaison Officer to date, along with the report of the ILO Committee of Experts on the Application of Conventions and Recommendations. The Committee's conclusions, adopted by consensus, are attached.

[1] ILO documents GB.282/4 and GB.282/4/Appendixes.

International Labour Conference

Provisional Record PART THREE

Ninetieth Session, Geneva, 2002
(Extract – Pages 9 and 10)

After noting the information provided by the Government representative, the Committee noted with deep concern the observation of the Committee of Experts evaluating the effect given to the three recommendations of the Commission of Inquiry, taking into account the information contained in the report of the High-Level Team. With regard in the first place to the Village Act and the Towns Act, which had not yet been amended, the Committee of Experts had noted that Order No. 1/99, as supplemented, had been given considerable publicity and may momentarily have affected certain civil infrastructure projects, but had not brought an end to the exaction of forced labour, particularly by the military. The specific and practical instructions and the budgetary provisions that were lacking had not yet been adopted, or even prepared, with a view to replacing in practice recourse to forced labour by the offer of decent wages and conditions of employment to make it possible to attract the necessary labour freely. Finally, no sanction had been imposed under section 374 of the Penal Code or any other provision, in accordance with Article 25 of the Convention, on those responsible for the exaction of forced labour, while the means of recourse available to complainants were not effective.

The Committee also noted the information on the High Level Team and its follow-up contained in the supplementary report submitted to the Committee. It noted that as a result of the cooperation of the authorities, it was possible for the first time to have available, through this report, an evaluation conducted freely in the country and on the other side of the border on the impact of the new regulations on the real situation of forced labour throughout the country.

It also welcomed the fact that one of the recommendations of the High-Level Team intended to ensure the presence of the ILO in Myanmar had been followed up and that the ILO's presence had already been ensured in practice through the appointment of the interim Liaison Officer and the report that he had already been

able to produce. However, it emphasized that this presence was only a means and would have no significance unless the future Liaison Officer rapidly had the capacity and administrative support, as well as the facilities, to conduct the various activities that could contribute to the effective implementation of the prohibition of forced labour. These facilities needed to include freedom of movement and access and required the cooperation of all the authorities, including the military. The Committee further regretted that no practical effect had yet been given to the other important proposals made by the High-Level Team with regard, on the one hand, to the murder of victims of forced labour in Shan State and, on the other hand, the establishment of an independent and credible form of mediation to offer a new means of recourse in which future victims could have confidence. Such an institution was particularly necessary in the absence of freedom of association, the significance of which for the situation of forced labour had been emphasized by the High-Level Team. The Committee also regretted that the provisions prohibiting forced labour had not been disseminated more broadly through all channels and in all appropriate languages, as called for by the High-Level Team. In general terms, the Committee emphasized the need for real, rapid and verifiable progress, not only at the procedural level, but also and in particular at the level of the persistent reality of forced labour and the widespread impunity of those responsible, and particularly the military. It encouraged the Office and the Director-General to pursue their efforts resolutely on all these issues, as well as their dialogue with the Government and all the parties concerned, and to report to the Governing Body, which would be responsible for examining, as appropriate, the conclusions to be drawn from the progress or lack of progress at its session in November 2002.

In this respect, the Committee noted that the Government representative, at the end of the discussions, had expressed the will of his Government to discharge its international obligations and to pursue the dialogue with the ILO.

Finally, it recalled that the Government would have to supply a detailed report for examination by the Committee of Experts at its next session on all the measures adopted to ensure compliance with the Convention in law and practice.